

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

SB 519 – HB 549

April 11, 2013

SUMMARY OF ORIGINAL BILL: Authorizes individuals to apply for an exemption from workers' compensation law requirements, if the individual is a member of a recognized religious sect or division, and the sect or division is conscientiously opposed to the acceptance of workers' compensation benefits. Authorizes individuals in the construction service industry that do not qualify for the exemption to apply for the Workers' Compensation Exemption Registry, if the individual is a member of a religious sect or division. Requires the applicant to submit a copy of an approved Internal Revenue Service Form 4029 and an affidavit signed by the individual. Effective upon becoming law for purposes of promulgating rules and regulations. For all other purposes, the effective date is January 1, 2014.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$7,500/FY13-14 and Every Two Years Thereafter/
Employee Misclassification Education and Enforcement Fund

Decrease State Revenue –
Exceeds \$400/FY13-14/TOSHA
Exceeds \$2,100/FY13-14/Second Injury Fund
Exceeds \$2,100/FY13-14/General Fund
Exceeds \$800/FY14-15 and Subsequent Years/TOSHA
Exceeds \$4,100/FY14-15 and Subsequent Years/Second Injury Fund
Exceeds \$4,100/ FY14-15 and Subsequent Years/General Fund

Increase State Expenditures –
\$19,000/FY13-14/Employee Misclassification Education
and Enforcement Fund
\$39,800/FY13-14/General Fund
\$61,600/FY14-15 and Subsequent Years/General Fund

SUMMARY OF AMENDMENT (004287): Deletes all language after the enacting clause. Authorizes up to five individuals per business in the construction services industry that do not qualify for the exemption to apply for the Workers' Compensation Exemption Registry, if the individual is a member of a religious sect or division. Requires the applicant to submit a copy of an approved Internal Revenue Service Form 4029 and an affidavit signed by the individual. Effective upon becoming law for purposes of promulgating rules and regulations. For all other purposes, the effective date is January 1, 2014.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On March 18, 2013, a fiscal memorandum was issued with the following fiscal impact:

Increase State Revenue –

*Exceeds \$3,800/FY13-14 and Every Two Years Thereafter/Employee
Misclassification Education and Enforcement Fund*

Decrease State Revenue –

*Exceeds \$200/FY13-14/TOSHA
Exceeds \$1,000/FY13-14/Second Injury Fund
Exceeds \$1,000/FY13-14/General Fund
Exceeds \$400/FY14-15 and Subsequent Years/TOSHA
Exceeds \$2,100/FY14-15 and Subsequent Years/Second Injury Fund
Exceeds \$2,100/ FY14-15 and Subsequent Years/General Fund*

Increase State Expenditures –

*\$19,000/FY13-14/Employee Misclassification Education
and Enforcement Fund
\$39,800/FY13-14/General Fund
\$61,600/FY14-15 and Subsequent Years/General Fund*

After receiving information from the Department of Labor and Workforce Development, the fiscal impact was updated. The fiscal impact of the bill as amended is estimated to be:

(CORRECTED)

Increase State Revenue –

**Exceeds \$3,800/FY13-14 and Every Two Years Thereafter/Employee
Misclassification Education and Enforcement Fund**

Decrease State Revenue –

**Exceeds \$200/FY13-14/TOSHA
Exceeds \$1,000/FY13-14/Second Injury Fund
Exceeds \$1,000/FY13-14/General Fund
Exceeds \$400/FY14-15 and Subsequent Years/TOSHA
Exceeds \$2,100/FY14-15 and Subsequent Years/Second Injury Fund
Exceeds \$2,100/ FY14-15 and Subsequent Years/General Fund**

Increase State Expenditures –

**\$40,800/FY13-14/Employee Misclassification Education
and Enforcement Fund
\$25,700/FY14-15 and Subsequent Years/Employee Misclassification
Education and Enforcement Fund**

Assumptions for the bill as amended:

- According to the Secretary of State, there will be a one-time increase in state expenditures of \$19,000 from the Employee Misclassification Education and Enforcement Fund (EMEEF) for computer programming (\$15,000) and business analyst/system testing (\$4,000) for the Tennessee BEAR system.
- At least 25 licensed applicants and 25 unlicensed applicants will apply for inclusion on the Workers' Compensation Exemption Registry.
- A \$50 fee for applicants who are licensed contractors. A \$100 fee for applicants who are not licensed contractors.
- The exemption registration is valid for a two-year period.
- A biennial increase in state revenue exceeding \$3,750 to the Employee Misclassification Education and Enforcement Fund [(25 applicants x \$100 fee for non-licensed) + (25 applicants x \$50 fee for licensed applicants)] beginning in FY13-14.
- The Department of Labor and Workforce Development (DLWD) expects Amish residents in Tennessee to apply for this exemption.
- According to DLWD, the Amish population in Tennessee is 1,948.
- At least 10 percent of the population (or 195) is currently working for employers that pay premiums for workers' compensation insurance.
- According to DLWD, the average premium is \$1,052. Total premiums paid are estimated to exceed \$205,140 (195 x \$1,052). At least half of this group will meet the criteria to be approved for an exemption. Premiums paid for this group are estimated to be \$102,570 (\$205,140 x 50%).
- A 4.0 percent premium tax with 50 percent allocated to the Second Injury Fund and 50 percent allocated to the General Fund.
- A 0.4 percent surcharge on premiums paid to the Tennessee Occupational Safety and Health Act (TOSHA).
- A recurring decrease in state revenue exceeding \$2,051 (\$102,570 x 4.0% x 50%) to the General Fund and a recurring decrease exceeding \$2,051 to the Second Injury Fund; both beginning in FY14-15.
- A recurring decrease in state revenue exceeding \$410 to TOSHA beginning in FY14-15 (\$102,570 x 0.4%).
- These impacts will be 50 percent of the first full-year impact due to the effective date.
- A decrease in state revenue exceeding \$1,026 (\$2,051 x 50%) to the General Fund and a decrease in state revenue exceeding \$1,026 to the Second Injury Fund; both occurring in FY13-14.
- A decrease in state revenue exceeding \$205 to TOSHA (\$410 x 50%) in FY13-14.
- DLWD will require one part time position for 1,000 hours annually at a rate of \$25.66 per hour.
- An increase in recurring state expenditures of \$25,660 from the EMEEF. An increase in FY13-14 of \$12,830 (\$25,660 x 50%) due to a January 1 effective date.
- A one-time expenditure of \$3,000 for office supplies and computer.
- DLWD will require one-time programming expenditures of \$6,000 to update the existing workers' compensation program.

- A total one-time increase in state expenditures from the EMEEF of \$9,000. A total increase in FY13-14 of \$40,830 (\$12,830 + \$9,000 + \$19,000).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/jaw